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General Assembly

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Human Rights Council
Thirty-fourth session
27 February-24 March 2017
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Australia,* Canada,* Germany, Israel,* Japan, Montenegro,* Norway,* Sri Lanka,* the former Yugoslav Republic of Macedonia,* United Kingdom of Great Britain and Northern Ireland, United States of America: draft resolution

34/... Promoting reconciliation, accountability and human rights in Sri Lanka

The Human Rights Council,

Reaffirming the purposes and principles of the Charter of the United Nations,

Guided by the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant instruments,

Reaffirming Human Rights Council resolution 30/1 of 1 October 2015 on promoting reconciliation, accountability and human rights in Sri Lanka,

Recalling Human Rights Council resolutions 19/2 of 22 March 2012, 22/1 of 21 March 2013 and 25/1 of 27 March 2014,

Reaffirming that it is the responsibility of each State to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population,

Reaffirming also its commitment to the sovereignty, independence, unity and territorial integrity of Sri Lanka,

Welcoming the visits made to Sri Lanka by the United Nations High Commissioner for Human Rights, from 6 to 9 February 2016, and by the Secretary-General, from 31 August to 2 September 2016,

Welcoming also the visit made by the Working Group on Enforced or Involuntary Disappearances from 9 to 18 November 2015, the advisory visits made by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence,

* State not a member of the Human Rights Council.

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the joint visit by the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment from 29 April to 9 May 2016, and the visit by the Special Rapporteur on minority issues from 10 to 20 October 2016,

Welcoming further the steps taken by the Government of Sri Lanka to implement Human Rights Council resolution 30/1, and recognizing in this context the need for further significant progress,

1. *Takes note with appreciation* of the comprehensive report presented by the United Nations High Commissioner for Human Rights to the Human Rights Council at its thirty-fourth session, as requested by the Council in its resolution 30/1,[1] and requests the Government of Sri Lanka to implement fully the measures identified by the Council in its resolution 30/1 that are outstanding;

2. *Welcomes* the positive engagement of the Government of Sri Lanka with the High Commissioner and the Office of the High Commissioner since October 2015, and with relevant special procedure mandate holders, and encourages the continuation of that engagement in the promotion and protection of human rights and truth, justice, reconciliation and accountability in Sri Lanka;

3. *Requests* the Office of the High Commissioner and relevant special procedure mandate holders, in consultation with and with the concurrence of the Government of Sri Lanka, to strengthen their advice and technical assistance on the promotion and protection of human rights and truth, justice, reconciliation and accountability in Sri Lanka;

4. *Requests* the Office of the High Commissioner to continue to assess progress on the implementation of its recommendations and other relevant processes related to reconciliation, accountability and human rights in Sri Lanka, and to present a written update to the Human Rights Council at its thirty-seventh session, and a comprehensive report, followed by a discussion on the implementation of Council resolution 30/1, at its fortieth session.

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[1] A/HRC/34/20.

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Human Rights Council
Thirty-fourth session
27 February–24 March 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Algeria,* Cuba, Democratic People's Republic of Korea,* Ecuador, Nicaragua,* Venezuela (Bolivarian Republic of): draft resolution

34/... Promotion of the enjoyment of the cultural rights of everyone and respect for cultural diversity

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Vienna Declaration and Programme of Action and all other relevant human rights instruments,

Recalling also all relevant resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council, including Assembly resolutions 64/81 of 7 December 2009 and 64/174 of 18 December 2009, and Council resolutions 10/23 of 26 March 2009, 14/9 of 18 June 2010, 17/15 of 17 June 2011, 19/6 of 22 March 2012, 20/11 of 5 July 2012, 23/10 of 13 June 2013, 25/19 of 28 March 2014, 28/9 of 26 March 2015 and 31/12 of 23 March 2016,

Noting the declarations within the United Nations system on cultural diversity and international cultural cooperation, in particular the Declaration of the Principles of International Cultural Cooperation and the Universal Declaration on Cultural Diversity, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization in 1966 and 2001, respectively,

Welcoming the increasing number of States parties to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 20 October 2005 and that entered into force on 18 March 2007,

* State not a member of the Human Rights Council.

Convinced that international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all should be based on an understanding of the economic, social and cultural specificities of each country and the full realization and recognition of the universality of all human rights and the principles of freedom, justice, equality and non-discrimination,

Recognizing that cultural diversity and the pursuit of cultural development by all peoples and nations are a source of mutual enrichment for the cultural life of humankind,

Determined to treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis,

1. *Reaffirms* that cultural rights are an integral part of human rights, which are universal, indivisible, interrelated and interdependent;

2. *Recognizes* the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress and its applications;

3. *Reaffirms* that, while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms;

4. *Recalls* that, as expressed in the Universal Declaration on Cultural Diversity, no one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope;

5. *Reaffirms* that States have the responsibility to promote and protect cultural rights, and that these rights should be guaranteed for all, without discrimination;

6. *Recognizes* that respect for the cultural diversity and cultural rights of all enhances cultural pluralism, contributing to a wider exchange of knowledge and understanding of cultural heritage and background, advancing the application and enjoyment of human rights throughout the world and fostering stable, friendly relations among peoples and nations worldwide;

7. *Also recognizes* that respect for cultural rights is essential for development, peace and the eradication of poverty, building social cohesion and the promotion of mutual respect, tolerance and understanding between individuals and groups, in all their diversity;

8. *Emphasizes* that the universal promotion and protection of human rights, including cultural rights, and respect for cultural diversity should reinforce each other;

9. *Takes note* of the report of the Special Rapporteur in the field of cultural rights submitted to the Human Rights Council;[1]

10. *Calls upon* all Governments to cooperate with and to assist the Special Rapporteur in the discharge of the mandate, to provide her with all the necessary information requested by her and to give serious consideration to responding favourably to her requests to visit their countries in order to enable her to fulfil her duties effectively;

11. *Requests* the United Nations High Commissioner for Human Rights to provide all the human and financial resources necessary for the effective fulfilment of the mandate by the Special Rapporteur;

[1] A/HRC/34/56.

12. *Requests* the Special Rapporteur to report regularly to the Human Rights Council and the General Assembly in accordance with their respective programmes of work;

13. *Decides* to continue its consideration of this matter under the same agenda item in accordance with its programme of work.

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Human Rights Council
Thirty-fourth session
27 February–24 March 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Algeria,* Cuba, Democratic People's Republic of Korea,* Ecuador, Nicaragua,* Venezuela (Bolivarian Republic of): draft resolution

34/... Mandate of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action and other relevant international human rights instruments,

Reaffirming all resolutions and decisions adopted by the Commission on Human Rights and the Human Rights Council on the effects of structural adjustment and economic reform policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights, the most recent being Council resolution 31/11 of 23 March 2016,

Reaffirming also Human Rights Council resolution S-10/1 of 23 February 2009 on the impact of the global economic and financial crises on the universal realization and effective enjoyment of human rights,

Recalling Human Rights Council resolutions 5/1, on institution-building of the Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with those resolutions and the annexes thereto,

Bearing in mind paragraph 6 of General Assembly resolution 60/251 of 15 March 2006,

* State not a member of the Human Rights Council.

Stressing that one of the purposes of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character,

Emphasizing that the World Conference on Human Rights agreed to call upon the international community to make all efforts to help to alleviate the external debt burden of developing countries in order to supplement the efforts of the Governments of such countries to attain the full realization of the economic, social and cultural rights of their people,

Stressing the primacy of the means of implementation for the 2030 Agenda for Sustainable Development, and in this regard underlining the fundamental principles of international cooperation, which are pivotal for the practical achievement of the Sustainable Development Goals,

Stressing also the determination expressed in the 2030 Agenda for Sustainable Development to assist developing countries in attaining long-term debt sustainability through coordinated policies aimed at fostering debt financing, debt relief and debt restructuring, as appropriate, and to address the external debt of highly indebted poor countries to reduce debt distress,

Recognizing the commitments made in the Addis Ababa Action Agenda, and noting that, despite international debt relief efforts, many countries remain vulnerable to debt crisis and some are in the midst of a crisis, including a number of least developed countries, small island developing States and some developed countries,

Mindful of the role, mandate and activities of other United Nations agencies, funds and programmes in dealing with the issues of foreign debt and international financial obligations,

Acknowledging that there is greater acceptance that the increasing debt burden faced by the most indebted developing countries, in particular the least developed countries, is unsustainable and constitutes one of the principal obstacles to achieving progress in people-centred sustainable development and poverty eradication and that, for many developing and some developed countries, excessive debt servicing has severely constrained their capacity to promote social development and provide basic services to create the conditions for the realization of economic, social and cultural rights,

Expressing its concern that, despite repeated rescheduling of debt, developing countries continue to pay out more each year than the actual amount they receive in official development assistance,

Recalling the Basic Principles on Sovereign Debt Restructuring Processes,[1] which emphasize that sovereign debt restructuring workouts should be completed in a timely and efficient manner and lead to a stable debt situation in the debtor State, minimizing economic and social costs, warranting the stability of the international financial system and respecting human rights,

Recognizing the sovereign right of any State to restructure its sovereign debt, which should not be frustrated or impeded by any measure emanating from another State,

Recognizing also that illicit financial flows, including tax evasion by high net-worth individuals, commercial tax evasion through trade misinvoicing and tax avoidance by transnational corporations, contribute to the build-up of unsustainable debt, as Governments lacking domestic revenue may resort to external borrowing,

[1] See General Assembly resolution 69/319.

Affirming that debt burden further complicates the numerous problems facing developing countries, contributes to extreme poverty and is an obstacle to sustainable human development, and is thus a serious impediment to the realization of all human rights,

1. *Recalls* that every State has the primary responsibility to promote the economic, social and cultural development of its people and, to that end, has the right and responsibility to choose its means and goals of development and should not be subject to external specific prescriptions for economic policy;

2. *Recognizes* that structural adjustment reform programmes and policy conditionalities limit public expenditure, impose fixed expenditure ceilings and give inadequate attention to the provision of social services, and that only a few countries manage to achieve sustainable higher growth under these programmes;

3. *Also recognizes* that debt relief can play a key role in liberating resources that should be directed towards activities consistent with attaining sustainable growth and development, including poverty reduction and the achievement of development goals, including those set out in the 2030 Agenda for Sustainable Development, and therefore that debt relief measures, where appropriate, should be pursued vigorously and expeditiously, ensuring that they do not replace alternative sources of financing and that they are accompanied by an increase in official development assistance;

4. *Urges* the international community, including the United Nations system, the Bretton Woods institutions and the private sector, to take appropriate measures and actions for the implementation of the pledges, commitments, agreements and decisions of major United Nations conferences and summits, including the Millennium Summit, the World Conference on Human Rights, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the World Conference on Sustainable Development and the International Conference on Financing for Development, in particular those relating to the question of the external debt problem of developing countries, in particular of heavily indebted poor countries, least developed countries and countries with economies in transition;

5. *Reiterates* its request to the United Nations High Commissioner for Human Rights to pay more attention to the problem of the debt burden of developing countries, in particular of least developed countries, and especially the social impact of the measures arising from foreign debt;

6. *Also reiterates* that the activities of vulture funds highlight some of the problems in the global financial system and are indicative of the unjust nature of the current system, which directly affects the enjoyment of human rights in debtor States, and calls upon States to consider implementing legal frameworks to curtail predatory vulture fund activities within their jurisdictions;

7. *Takes note with appreciation* of the progress report of the Advisory Committee on the activities of vulture funds and their impact on human rights,[2] and request the Committee to present a final report thereon to the Human Rights Council at its thirty-ninth session for its consideration;

8. *Welcomes* the work and contributions of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the

[2] A/HRC/33/54.

full enjoyment of all human rights, particularly economic, social and cultural rights, and takes note with appreciation of his latest report submitted to the Human Rights Council;[3]

9. *Decides* to extend the mandate of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights for a period of three years, and requests the Independent Expert to pay particular attention to:

(*a*) The effects of foreign debt and the policies adopted to address them on the full enjoyment of all human rights, in particular, economic, social and cultural rights;

(*b*) The impact of foreign debt and other related international financial obligations on the capacity of States to design and implement their policies and programmes, including national budgets that respond to vital requirements for the promotion of the realization of social rights;

(*c*) Measures taken by Governments, the private sector and international financial institutions to alleviate such effects in developing countries, especially the poorest and heavily indebted countries;

(*d*) New developments, actions and initiatives being taken by international financial institutions, other United Nations bodies and intergovernmental and non-governmental organizations with respect to economic reform policies and human rights;

(*e*) The effects of public debt, economic reform and financial consolidation policies on the realization of the Sustainable Development Goals;

(*f*) The impact of illicit financial flows on the enjoyment of human rights;

(*g*) The process entrusted with the follow-up to the International Conference on Financing for Development, with a view to bringing to its attention the issue of the effects of structural adjustment and foreign debt on the enjoyment of human rights, particularly economic, social and cultural rights;

(*h*) Enhancement of consultations with all relevant stakeholders in the fulfilment of the mandate;

10. *Calls upon* all Governments to cooperate with and assist the Independent Expert in the discharge of his or her mandate, to provide him or her with all the necessary information requested by him or her, and to give serious consideration to responding favourably to his or her requests to visit their countries in order to enable him or her to fulfil his or her duties effectively;

11. *Urges* international organizations, international financial institutions, non-governmental organizations and the private sector to cooperate fully with the Independent Expert in the discharge of his or her mandate;

12. *Requests* the Independent Expert to participate in relevant international dialogues and policy forums relating to the implementation of the 2030 Agenda for Sustainable Development, and to undertake thematic research and to provide advice to States, international financial institutions, the private sector and civil society on the effective implementation of the Agenda in the field of international lending, financial policy and human rights, paying particular attention to Sustainable Development Goals 10 and 17;

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[3] A/HRC/34/57 and Add.1.

13. *Also requests* the Independent Expert to develop guiding principles for human rights impact assessments for economic reform policies, in consultation with States, international financial institutions and other relevant stakeholders, and to organize expert consultations for the development of the guiding principles and a mapping of existing impact assessment tools;

14. *Invites* the Independent Expert to submit his findings and the guiding principles to the Human Rights Council in the context of his annual report;

15. *Requests* the High Commissioner to provide all the necessary human and financial resources for the effective fulfilment of the mandate by the Independent Expert;

16. *Requests* the Independent Expert to report regularly to the Human Rights Council and the General Assembly in accordance with their respective programmes of work;

17. *Decides* to continue its consideration of this matter at its thirty-seventh session under the same agenda item.

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Human Rights Council
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27 February–24 March 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Argentina,* Austria,* Belgium, Bosnia and Herzegovina,* Bulgaria,* Chile,* Cyprus,* Denmark,* Egypt, El Salvador, Finland,* Germany, Greece,* Honduras,* Ireland,* Italy,* Luxembourg,* Malta,* Montenegro,* Panama, Paraguay, Peru,* Philippines, Portugal, Romania,* Spain,* Thailand,* Ukraine,* Uruguay:* draft resolution

34/... Question of the realization in all countries of economic, social and cultural rights

The Human Rights Council,

Guided by the principles of economic, social and cultural rights enshrined in international human rights instruments, including the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling that the Vienna Declaration and Programme of Action, the 2005 World Summit Outcome and General Assembly resolution 60/251 of 15 March 2006, in which the Assembly established the Human Rights Council, all affirm that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing and must be treated in a fair and equal manner, on the same footing and with the same emphasis, and *recalling also* that the promotion and protection of one category of rights should never exempt States from the promotion and protection of the other rights,

Recalling also the United Nations Millennium Declaration, in which the heads of State and Government affirmed their commitment to spare no effort to promote democracy and strengthen the rule of law, as well as respect for all internationally recognized human rights and fundamental freedoms, including the right to development,

Reaffirming General Assembly resolution 70/1 of 25 September 2015, entitled "Transforming our world: the 2030 Agenda for Sustainable Development", in which the Assembly adopted a comprehensive, far-reaching and people-centred set of universal and transformative sustainable development Goals and targets, the commitment to working

* States not a member of the Human Rights Council.

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tirelessly for the full implementation of the Agenda by 2030, its recognition that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development, its commitment to achieving sustainable development in its three dimensions – economic, social and environmental – in a balanced and integrated manner, building upon the achievements of the Millennium Development Goals and seeking to address their unfinished business, and aiming to contribute to the full implementation of the Agenda by 2030,

Recalling General Assembly resolution 69/313 of 27 July 2015 on the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, which is an integral part of the 2030 Agenda for Sustainable Development, supports and complements it, and helps to contextualize its means of implementation targets with concrete policies and actions, and which reaffirmed the strong political commitment to address the challenge of financing and creating an enabling environment at all levels for sustainable development in the spirit of global partnership and solidarity,

Reaffirming the New York Declaration for Refugees and Migrants adopted by the General Assembly on 19 September 2016, in which States reaffirmed the human rights of all refugees and migrants, regardless of status, and pledged to fully protect such rights,

Recalling its resolutions on the question of the realization in all countries of economic, social and cultural rights, and the resolutions adopted by the Commission on Human Rights on the same topic,

Reaffirming the obligations and commitments to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of available resources, with a view to achieving progressively the full realization of economic, social and cultural rights by all appropriate means, including particularly the adoption of legislative measures,

Underlining the human rights principles of, inter alia, non-discrimination, human dignity, equity, equality, universality, participation and accountability, as affirmed in international human rights law and in the Vienna Declaration and Programme of Action, and emphasizing that the rights enunciated in the International Covenant on Economic, Social and Cultural Rights are to be realized in a non-discriminatory manner,

Recalling the commitment included in the International Covenant on Economic, Social and Cultural Rights to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the Covenant, and welcoming the inclusion of both gender equality and the empowerment of all women and girls as a stand-alone goal, and its integration into all goals and targets of the 2030 Agenda for Sustainable Development and throughout the implementation process,

Recognizing that human rights and social protection floors complement each other, and that social protection floors, when used as a baseline, have the potential to facilitate the enjoyment of economic, social and cultural rights and to reduce poverty and inequality,

1. *Calls upon* all States to give full effect to economic, social and cultural rights by, inter alia, taking all appropriate measures to implement the Human Rights Council resolutions on the question of the realization in all countries of economic, social and cultural rights, the most recent of which is resolution 31/5 of 23 March 2016;

2. *Calls upon* all States that have not yet signed and ratified the International Covenant on Economic, Social and Cultural Rights to consider doing so as a matter of priority, and States parties to consider reviewing their reservations thereto;

3. *Welcomes* the most recent ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and encourages all States

that have not yet signed and ratified the Optional Protocol to consider doing so, and also to consider making declarations under articles 10 and 11 thereof;

4. *Takes note with appreciation* of the report of the Secretary-General on the question of the realization in all countries of economic, social and cultural rights, with a special focus on the realization of economic, social and cultural rights in the implementation of the 2030 Agenda for Sustainable Development, submitted pursuant to Human Rights Council resolution 31/5,[1] and of the conclusions contained therein;

5. *Emphasizes* that the 2030 Agenda marks a paradigm shift towards a more balanced and integrated plan of action for achieving sustainable development that reflects the indivisibility and interdependence of all human rights;

6. *Recognizes* that the 17 Sustainable Development Goals and the 169 targets of the 2030 Agenda cover a wide range of issues relating to economic, social and cultural rights, in particular availability, accessibility, affordability and quality of services, and many dimensions of civil and political rights, as well as issues that are related to domestic resource mobilization, international cooperation and the right to development, and that implementation of the 2030 Agenda must be consistent with a State's obligations under international human rights law;

7. *Also recognizes* that the commitments made by States in the 2030 Agenda to leave no one behind, and to reach the furthest behind first, founded on the dignity of the human person, and reflecting the principles of equality and non-discrimination, require the collection of quality, accessible, timely and reliable disaggregated data to help in the measurement of progress across all Goals and targets, and the intensification of efforts to strengthen statistical capacities in developing countries, particularly African countries, least developed countries, landlocked developing countries, small island developing States and middle-income countries;

8. *Notes with appreciation* the contributions of international human rights mechanisms, including the Human Rights Council and its subsidiary bodies, international human rights treaty bodies, the special procedures and the universal periodic review in promoting the implementation of the 2030 Agenda in accordance with States' human rights obligations, encourages States to give due consideration to information, observations and recommendations from human rights mechanisms when implementing and monitoring progress of the 2030 Agenda, and to promote the cooperation of all stakeholders towards the full integration of human rights into the said processes;

9. *Urges* States to consider adopting or further developing procedures for information-gathering and measurement, which may, if analysed in the light of international human rights law principles and standards, serve as national indicators for State decision-making processes, and are transparent and participatory, and allow for accountability;

10. *Underlines* the importance of an effective remedy for violations of economic, social and cultural rights, and in this regard notes with appreciation the measures taken to facilitate access to complaints procedures and the domestic adjudication of cases, as appropriate, for victims of alleged human rights violations;

11. *Welcomes* the steps taken at the national level to implement economic, social and cultural rights, including the enactment of appropriate legislation and adjudication by national courts, and in this regard underlines the need to consider justiciability when determining the best way to give domestic legal effect to the rights in the Covenant;

[1] A/HRC/34/25.

12. *Recognizes* that the 17 Sustainable Development Goals and 169 targets seek to, inter alia, realize the human rights of all and to achieve gender equality and the empowerment of all women and girls, and that they are integrated and indivisible and balance the three dimensions of sustainable development, namely the economic, social and environmental, and calls upon States to implement the 2030 Agenda consistent with the principles of equality and non-discrimination, and in this regard encourages States to consider appropriate measures to promote de facto equality;

13. *Acknowledges* that social protection floors may facilitate the enjoyment of human rights, including the rights to social security, the highest attainable standard of physical and mental health, an adequate standard of living, including adequate food, clothing and housing, education, and safe drinking water and sanitation, in accordance with the human rights obligations of States, and in this regard underlines the importance of compliance with the principles of non-discrimination, transparency, participation and accountability;

14. *Notes with appreciation* the work carried out by the Committee on Economic, Social and Cultural Rights to assist States parties in fulfilling their obligations, including through the submission of general comments, the consideration of periodic reports and, for States parties to the Optional Protocol to the Covenant, the examination of individual communications;

15. *Also notes with appreciation* the work of other relevant treaty bodies and special procedures in the promotion and protection of economic, social and cultural rights within their respective mandates;

16. *Encourages* enhanced cooperation and, as appropriate, increased coordination between the Committee on Economic, Social and Cultural Rights and United Nations bodies, specialized agencies and programmes, mechanisms of the Human Rights Council and other human rights treaty bodies whose activities have a bearing on economic, social and cultural rights, in a manner that respects their distinctive mandates and promotes their policies, programmes and projects;

17. *Recognizes and encourages* the important contributions of regional organizations, national human rights institutions and civil society, including non-governmental organizations, academic and research institutions, business enterprises and trade unions, to the question of the realization and enjoyment of economic, social and cultural rights, including training and information activities;

18. *Welcomes* the activities carried out by the Office of the United Nations High Commissioner for Human Rights on the promotion of economic, social and cultural rights, mainly through technical cooperation, the work of its field offices, its relevant reports to United Nations bodies, the development of in-house expertise, including on human rights indicators, and its publications, studies, training and information activities on related issues, including through new information technology;

19. *Requests* the Secretary-General to continue to prepare and submit to the Human Rights Council an annual report on the question of the realization in all countries of economic, social and cultural rights under agenda item 3, with a special focus on the role of economic, social and cultural rights in the transformation towards sustainable and resilient societies;

20. *Decides* to remain seized of this issue and to consider taking further action in order to implement the present resolution.

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27 February–24 March 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Angola,* Argentina,* Austria,* Belgium, Bosnia and Herzegovina,* Bulgaria,* Chile,* Croatia, Cyprus,* Denmark,* Egypt, El Salvador, Finland,* Germany, Greece,* Honduras,* Ireland,* Italy,* Luxembourg,* Malta,* Montenegro,* Panama, Paraguay, Peru,* Philippines, Portugal, Romania,* Spain,* Thailand,* Ukraine,* Uruguay:* draft resolution

34/... Question of the realization in all countries of economic, social and cultural rights

The Human Rights Council,

Guided by the principles of economic, social and cultural rights enshrined in international human rights instruments, including the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling that the Vienna Declaration and Programme of Action, the 2005 World Summit Outcome and General Assembly resolution 60/251 of 15 March 2006, in which the Assembly established the Human Rights Council, all affirm that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing and must be treated in a fair and equal manner, on the same footing and with the same emphasis, and recalling also that the promotion and protection of one category of rights should never exempt States from the promotion and protection of the other rights,

Recalling also the United Nations Millennium Declaration, in which the heads of State and Government affirmed their commitment to spare no effort to promote democracy and strengthen the rule of law, as well as peace, development and respect for all internationally recognized human rights and fundamental freedoms, including the right to development, and believing that broad and sustained efforts are needed to build a community of shared future for all human beings,

* State not a member of the Human Rights Council.

Reaffirming General Assembly resolution 70/1 of 25 September 2015, entitled "Transforming our world: the 2030 Agenda for Sustainable Development", in which the Assembly adopted a comprehensive, far-reaching and people-centred set of universal and transformative sustainable development Goals and targets, the commitment to working tirelessly for the full implementation of the Agenda by 2030, its recognition that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development, its commitment to achieving sustainable development in its three dimensions – economic, social and environmental – in a balanced and integrated manner, building upon the achievements of the Millennium Development Goals and seeking to address their unfinished business, and aiming to contribute to the full implementation of the Agenda by 2030,

Reaffirming also the New York Declaration for Refugees and Migrants adopted by the General Assembly on 19 September 2016, in which States reaffirmed the human rights of all refugees and migrants, regardless of status, and pledged to fully protect such rights,

Recalling its resolutions on the question of the realization in all countries of economic, social and cultural rights, and the resolutions adopted by the Commission on Human Rights on the same topic,

Reaffirming the obligations and commitments to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of available resources, with a view to achieving progressively the full realization of economic, social and cultural rights by all appropriate means, including particularly the adoption of legislative measures,

Underlining the human rights principles of, inter alia, non-discrimination, human dignity, equity, equality, universality, participation and accountability, as affirmed in international human rights law and in the Vienna Declaration and Programme of Action,

Emphasizing that the rights enunciated in the International Covenant on Economic, Social and Cultural Rights are to be realized in a non-discriminatory manner,

Recalling the commitment included in the International Covenant on Economic, Social and Cultural Rights to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the Covenant, and welcoming the inclusion of both gender equality and the empowerment of all women and girls as a stand-alone goal, and its integration into all goals and targets of the 2030 Agenda for Sustainable Development and throughout the implementation process,

Recognizing that human rights and social protection floors complement each other, and that social protection floors, when used as a baseline, have the potential to facilitate the enjoyment of economic, social and cultural rights and to reduce poverty and inequality,

1. *Calls upon* all States to give full effect to economic, social and cultural rights by, inter alia, taking all appropriate measures to implement the Human Rights Council resolutions on the question of the realization in all countries of economic, social and cultural rights, the most recent of which is resolution 31/5 of 23 March 2016;

2. *Calls upon* all States that have not yet signed and ratified the International Covenant on Economic, Social and Cultural Rights to consider doing so as a matter of priority, and States parties to consider reviewing their reservations thereto;

3. *Welcomes* the most recent ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and encourages all States that have not yet signed and ratified the Optional Protocol to consider doing so, and also to consider making declarations under articles 10 and 11 thereof;

4. *Takes note with appreciation* of the report of the Secretary-General on the question of the realization in all countries of economic, social and cultural rights, with a special focus on the realization of economic, social and cultural rights in the implementation of the 2030 Agenda for Sustainable Development, submitted pursuant to Human Rights Council resolution 31/5,[1] and of the conclusions contained therein;

5. *Emphasizes* that the 2030 Agenda marks a paradigm shift towards a more balanced and integrated plan of action for achieving sustainable development that reflects the indivisibility and interdependence of all human rights;

6. *Recognizes* that the 17 Sustainable Development Goals and the 169 targets of the 2030 Agenda cover a wide range of issues relating to economic, social and cultural rights, in particular availability, accessibility, affordability and quality of services, and many dimensions of civil and political rights, as well as issues that are related to domestic resource mobilization, international cooperation and the right to development, and that implementation of the 2030 Agenda must be consistent with a State's obligations under international human rights law;

7. *Also recognizes* that the commitments made by States in the 2030 Agenda to leave no one behind, and to reach the furthest behind first, founded on the dignity of the human person, and reflecting the principles of equality and non-discrimination, require the collection of quality, accessible, timely and reliable disaggregated data to help in the measurement of progress across all Goals and targets, and the intensification of efforts to strengthen statistical capacities in developing countries, particularly African countries, least developed countries, landlocked developing countries, small island developing States and middle-income countries;

8. *Notes with appreciation* the contributions of international human rights mechanisms, including the Human Rights Council and its subsidiary bodies, international human rights treaty bodies, the special procedures and the universal periodic review in promoting the implementation of the 2030 Agenda in accordance with States' human rights obligations, encourages States to give due consideration to information, observations and recommendations from human rights mechanisms when implementing and monitoring progress of the 2030 Agenda, and to promote the cooperation of all stakeholders towards the full integration of human rights into the said processes;

9. *Urges* States to consider adopting or further developing procedures for information-gathering and measurement, which may, if analysed in the light of international human rights law principles and standards, serve as national indicators for State decision-making processes, and are transparent and participatory, and allow for accountability;

10. *Underlines* the importance of an effective remedy for violations of economic, social and cultural rights, and in this regard notes with appreciation the measures taken to facilitate access to complaints procedures and the domestic adjudication of cases, as appropriate, for victims of alleged human rights violations;

11. *Welcomes* the steps taken at the national level to implement economic, social and cultural rights, including the enactment of appropriate legislation and adjudication by national courts, and in this regard underlines the need to consider justiciability when determining the best way to give domestic legal effect to the rights in the Covenant;

12. *Recognizes* that the 17 Sustainable Development Goals and 169 targets seek to, inter alia, realize the human rights of all and to achieve gender equality and the empowerment of all women and girls, and that they are integrated and indivisible and

[1] A/HRC/34/25.

balance the three dimensions of sustainable development, namely the economic, social and environmental, and calls upon States to implement the 2030 Agenda consistent with the principles of equality and non-discrimination, and in this regard encourages States to consider appropriate measures to promote de facto equality;

13. *Acknowledges* that social protection floors may facilitate the enjoyment of human rights, including the rights to social security, the highest attainable standard of physical and mental health, an adequate standard of living, including adequate food, clothing and housing, education, and safe drinking water and sanitation, in accordance with the human rights obligations of States, and in this regard underlines the importance of compliance with the principles of non-discrimination, transparency, participation and accountability;

14. *Notes with appreciation* the work carried out by the Committee on Economic, Social and Cultural Rights to assist States parties in fulfilling their obligations, including through the submission of general comments, the consideration of periodic reports and, for States parties to the Optional Protocol to the Covenant, the examination of individual communications;

15. *Also notes with appreciation* the work of other relevant treaty bodies and special procedures in the promotion and protection of economic, social and cultural rights within their respective mandates;

16. *Encourages* enhanced cooperation and, as appropriate, increased coordination between the Committee on Economic, Social and Cultural Rights and United Nations bodies, specialized agencies and programmes, mechanisms of the Human Rights Council and other human rights treaty bodies whose activities have a bearing on economic, social and cultural rights, in a manner that respects their distinctive mandates and promotes their policies, programmes and projects;

17. *Recognizes and encourages* the important contributions of regional organizations, national human rights institutions and civil society, including non-governmental organizations, academic and research institutions, business enterprises and trade unions, to the question of the realization and enjoyment of economic, social and cultural rights, including training and information activities;

18. *Welcomes* the activities carried out by the Office of the United Nations High Commissioner for Human Rights on the promotion of economic, social and cultural rights, mainly through technical cooperation, the work of its field offices, its relevant reports to United Nations bodies, the development of in-house expertise, including on human rights indicators, and its publications, studies, training and information activities on related issues, including through new information technology;

19. *Requests* the Secretary-General to continue to prepare and submit to the Human Rights Council an annual report on the question of the realization in all countries of economic, social and cultural rights under agenda item 3, with a special focus on the role of economic, social and cultural rights in the transformation towards sustainable and resilient societies;

20. *Decides* to remain seized of this issue and to consider taking further action in order to implement the present resolution.

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Human Rights Council
Thirty-fourth session
27 February–24 March 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania, Andorra,* Argentina,* Armenia,* Australia,* Austria,* Belgium, Bosnia and Herzegovina,* Bulgaria,* Canada,* Chile,* Côte d'Ivoire, Croatia, Cyprus,* Denmark,* Estonia,* Fiji,* Finland,* France,* Georgia, Germany, Ghana, Greece,* Honduras,* Hungary, Iceland,* Indonesia, Ireland,* Japan, Latvia, Luxembourg,* Liechtenstein,* Mali,* Malta,* Mexico,* Montenegro,* Netherlands, New Zealand,* Norway,* Panama, Paraguay, Peru,* Poland,* Portugal, Republic of Korea, Republic of Moldova,* Romania,* Serbia,* Slovenia, Spain,* Sweden,* the former Yugoslav Republic of Macedonia,* Timor-Leste,* Tunisia, Turkey,* Ukraine,* United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, State of Palestine:* draft resolution

34/... Mandate of the Special Rapporteur on the situation of human rights defenders

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant instruments,

Recalling General Assembly resolution 53/144 of 9 December 1998, by which the Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms annexed to that resolution, and reiterating the importance of the Declaration and its promotion and implementation,

Recalling also the continued validity and application of all the provisions of the above-mentioned Declaration,

Recalling further all previous resolutions on this subject, in particular, Human Rights Council resolutions 16/5 of 24 March 2011, 25/18 of 28 March 2014 and 31/32 of

* State not a member of the Human Rights Council.

24 March 2016, and General Assembly resolutions 68/181 of 18 December 2013 and 70/161 of 17 December 2015,

Recalling Human Rights Council resolutions 5/1, on institution-building of the Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his/her duties in accordance with those resolutions and the annexes thereto,

Emphasizing the important role that individuals and civil society institutions, including non-governmental organizations, groups and national human rights institutions, play at the local, national, regional and international levels in the promotion and protection of all human rights and fundamental freedoms for all,

Reiterating the grave concerns expressed by the General Assembly and the Human Rights Council with regard to the serious risks faced by human rights defenders due to threats, attacks, reprisals and acts of intimidation against them,

Reaffirming that States are under the obligation to protect all human rights and fundamental freedoms of all persons,

Stressing that respect and support for the activities of human rights defenders, including women human rights defenders, are essential to the overall enjoyment of human rights,

Mindful that domestic law and administrative provisions and their application should facilitate the work of human rights defenders, including by avoiding any criminalization, stigmatization, impediments, obstructions or restrictions thereof contrary to international human rights law,

Underscoring that the legal framework within which human rights defenders work peacefully to promote and protect human rights and fundamental freedoms is that of national legislation consistent with the Charter and international human rights law,

Gravely concerned that, in some instances, national security and counter-terrorism legislation and other measures, such as laws regulating civil society organizations, have been misused to target human rights defenders or have hindered their work and endangered their safety in a manner contrary to international law,

Recognizing the urgent need to address, and to take concrete steps to prevent and stop, the use of legislation to hinder or limit unduly the ability of human rights defenders to exercise their work, including by reviewing and, where necessary, amending relevant legislation and its implementation in order to ensure compliance with international human rights law,

1. *Welcomes* the work and takes note with appreciation of the report of the Special Rapporteur on the situation of human rights defenders,[1] and strongly urges all States to take concrete steps to create, in law and in practice, a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity;

2. *Decides* to extend the mandate of the Special Rapporteur on the situation of human rights defenders for a period of three years on the same terms as provided for by the Human Rights Council in its resolution 16/5;

[1] A/HRC/34/52.

3. *Urges* all States to cooperate with and assist the Special Rapporteur in the performance of his/her tasks, to provide all information and to respond to the communications transmitted to them by the Special Rapporteur without undue delay;

4. *Calls upon* States to give serious consideration to responding favourably to the requests of the Special Rapporteur to visit their countries, and urges them to enter into a constructive dialogue with the Special Rapporteur with respect to the follow-up to and implementation of his/her recommendations so as to enable him/her to fulfil his/her mandate even more effectively;

5. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Special Rapporteur with all the assistance necessary for the effective fulfilment of his/her mandate;

6. *Encourages* all concerned United Nations agencies and organizations, within their mandates, to provide all possible assistance and support to the Special Rapporteur for the effective fulfilment of his/her mandate, including in the context of country visits and through suggestions on ways and means of ensuring the protection of human rights defenders;

7. *Decides* to continue consideration of this issue in accordance with its annual programme of work.

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Human Rights Council
Thirty-fourth session
27 February–24 March 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Armenia,* Australia,* Austria,* Bosnia and Herzegovina,* Bulgaria,* Canada,* Cyprus,* Czechia,* Denmark,* Estonia,* Finland,* Georgia, Germany, Greece,* Hungary, Iceland,* Ireland,* Italy,* Japan, Latvia, Liechtenstein,* Luxembourg,* Malta,* Mexico,* Montenegro,* Netherlands, Norway,* Panama, Paraguay, Peru,* Poland,* Romania,* Senegal,* Serbia,* Slovakia,* Slovenia, Spain,* Sweden,* Switzerland, the former Yugoslav Republic of Macedonia,* Ukraine,* United States of America: draft resolution

34/... Mandate of the Special Rapporteur on minority issues

The Human Rights Council,

Recalling the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by consensus by the General Assembly by its resolution 47/135 of 18 December 1992,

Recalling also all previous resolutions adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council on the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Recalling further its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that all mandate holders shall discharge their duties in accordance with those resolutions and the annexes thereto,

1. *Decides* to extend the mandate of the Special Rapporteur on minority issues for a period of three years under the same terms as provided for by the Human Rights Council in its resolution 25/5;

* State not a member of the Human Rights Council.

2. *Calls upon* all States to cooperate with and assist the Special Rapporteur in the performance of the tasks and duties mandated to him or her, to provide him or her with all the necessary information requested and to seriously consider responding promptly and favourably to the request of the Special Rapporteur to visit their countries in order to enable him or her to fulfil his or her duties effectively;

3. *Encourages* specialized agencies, regional organizations, national human rights institutions and non-governmental organizations to develop and maintain regular dialogue and cooperation with the mandate holder, and to continue to contribute to the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities;

4. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide all the human, technical and financial assistance necessary for the effective fulfilment of the mandate of the Special Rapporteur;

5. *Decides* to continue its consideration of this issue in accordance with its annual programme of work.

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Human Rights Council
Thirty-fourth session
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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania, Angola,* Argentina,* Austria,* Belgium, Bosnia and Herzegovina,* Brazil, Bulgaria,* Chile,* Congo, Croatia, Cyprus,* Czechia,* Denmark,* Ecuador, Estonia,* Georgia, Germany, Haiti,* Honduras,* Iceland,* Ireland,* Kenya, Latvia, Liechtenstein,* Lithuania,* Luxembourg,* Mali,* Mexico,* Montenegro,* Netherlands, Norway,* Panama, Paraguay, Peru,* Poland,* Portugal, Republic of Moldova,* Romania,* Serbia,* Slovenia, Spain,* Sweden,* Switzerland, the former Yugoslav Republic of Macedonia,* Timor-Leste,* Tunisia, Ukraine:* draft resolution

34/... The right to privacy in the digital age

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the human rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights and relevant international human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities,

Recalling the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms,

Reaffirming the Vienna Declaration and Programme of Action,

Recalling General Assembly resolutions 68/167 of 18 December 2013, 69/166 of 18 December 2014 and 71/199 of 19 December 2016 on the right to privacy in the digital age, and 45/95 of 14 December 1990, on guidelines for the regulation of computerized personal data files, Human Rights Council decision 25/117 of 27 March 2014 and Council resolution 28/16 of 26 March 2015 on the right to privacy in the digital age, and all other relevant resolutions of the Council, in particular resolutions 33/2 of 29 September 2016 on the safety of journalists, resolution 12/16 of 2 October 2009 and all other resolutions on the right to

* State not a member of the Human Rights Council.

freedom of opinion and expression, and resolutions 20/8 of 5 July 2012, 26/13 of 26 June 2014 and 32/13 of 1 July 2016, on the promotion, protection and enjoyment of human rights on the Internet,

Welcoming the work of the Office of the United Nations High Commissioner for Human Rights on the right to privacy in the digital age, noting with interest its report thereon, and recalling the panel discussion on the right to privacy in the digital age held during the twenty-seventh session of the Human Rights Council,[1]

Welcoming also the work of the Special Rapporteur on the right to privacy, and taking note of the reports of the Special Rapporteur on the right to privacy,[2] of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism[3] and of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,[4]

Noting with appreciation general comment No. 16 of the Human Rights Committee on the right to respect of privacy, family, home and correspondence, and protection of honour and reputation, while also noting the vast technological leaps that have taken place since its adoption and the need to discuss the right to privacy in view of the challenges of the digital age,

Noting that, in its general comment No. 16, the Human Rights Committee recommends that States take effective measures to prevent the unlawful retention, processing and use of personal data stored by public authorities and business enterprises,

Recalling that the General Assembly in its resolution 71/199 encouraged the Human Rights Council to remain actively seized of the debate on the right to privacy in the digital age, with the purpose of identifying and clarifying principles, standards and best practices regarding the promotion and protection of the right to privacy, and to consider holding an expert workshop as a contribution for a future report of the United Nations High Commissioner for Human Rights on this matter,

Recognizing the need to further discuss and analyse, on the basis of international human rights law, issues relating to the promotion and protection of the right to privacy in the digital age, procedural safeguards, effective domestic oversight and remedies, the impact of surveillance on the right to privacy and other human rights, as well as the need to examine the principles of legality, necessity and proportionality in relation to surveillance practices,

Recognizing also that the discussion on the right to privacy should be based upon existing international and domestic legal obligations, including international human rights law, and relevant commitments, and should not open the path for undue interference with an individual's human rights,

Reaffirming the human right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference, and recognizing that the exercise of the right to privacy is important for the realization of other human rights, including the right to freedom of expression and to hold opinions without interference, and the right to freedom of peaceful assembly and association, and is one of the foundations of a democratic society,

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[1] See A/HRC/28/39.

[2] A/HRC/31/64, A/HRC/34/60 and A/71/368.

[3] A/HRC/34/61 and A/69/397.

[4] A/HRC/23/40 and Corr.1, A/HRC/29/32, A/HRC/32/38 and A/70/361.

Recognizing that the right to privacy can enable the enjoyment of other rights and the free development of an individual's personality and identity, and an individual's ability to participate in political, economic, social and cultural life, and noting with concern that violations or abuses of the right to privacy might affect the enjoyment of other human rights, including the right to freedom of expression and to hold opinions without interference, and the right to freedom of peaceful assembly and association,

Noting that the rapid pace of technological development enables individuals all over the world to use information and communications technology and at the same time enhances the capacity of governments, business enterprises and individuals to undertake surveillance, interception and data collection, which may violate or abuse human rights, in particular the right to privacy, as set out in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights, and is therefore an issue of increasing concern,

Noting also that, while metadata may provide benefits, certain types of metadata, when aggregated, can reveal personal information that can be no less sensitive than the actual content of communications and can give an insight into an individual's behaviour, social relationships, private preferences and identity,

Noting with concern that automatic processing of personal data for individual profiling may lead to discrimination or decisions that otherwise have the potential to affect the enjoyment of human rights, including economic, social and cultural rights, and recognizing the need to further discuss and analyse these practices on the basis of international human rights law,

Expressing concern that individuals often do not provide their free, explicit and informed consent to the re-use, sale or multiple re-sales of their personal data, as the collecting, processing and sharing of personal data, including sensitive data, has increased significantly in the digital age,

Emphasizing that unlawful or arbitrary surveillance and/or interception of communications, including when undertaken extraterritorially, as well as the unlawful or arbitrary collection of personal data, as highly intrusive acts, violate the right to privacy, can interfere with other human rights, including the right to freedom of expression and to hold opinions without interference, and the right to freedom of peaceful assembly and association, and may contradict the tenets of a democratic society, including when undertaken on a mass scale,

Emphasizing also that States must respect international human rights obligations regarding the right to privacy when they intercept digital communications of individuals and/or collect personal data and when they require disclosure of personal data from third parties, including business enterprises,

Recalling that business enterprises have a responsibility to respect human rights as set out in the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, and that the obligation and the primary responsibility to promote and protect human rights and fundamental freedoms lie with the State,

Deeply concerned at the negative impact that surveillance and/or interception of communications, including extraterritorial surveillance and/or interception of communications, as well as the collection of personal data, in particular when carried out on a mass scale, may have on the exercise and enjoyment of human rights,

Noting that, while concerns about public security may justify the gathering and protection of certain sensitive information, States must ensure full compliance with their obligations under international human rights law,

Emphasizing that, in the digital age, technical solutions to secure and to protect the confidentiality of digital communications, including measures for encryption and anonymity, can be important to ensure the enjoyment of human rights, in particular the rights to privacy, to freedom of expression and to freedom of peaceful assembly and association,

Emphasizing also that an open, secure, stable, accessible and peaceful information and communications technology environment is important to the enjoyment of human rights, including the right to privacy,

Noting that violations and abuses of the right to privacy in the digital age may affect all individuals, including with particular effects on women, as well as children and persons in vulnerable situations, or marginalized groups,

Noting with deep concern that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms frequently face threats and harassment and suffer insecurity as well as unlawful or arbitrary interference with their right to privacy as a result of their activities,

Noting that the prevention and suppression of terrorism is a public interest of great importance, while reaffirming that States must ensure that any measures taken to combat terrorism are in compliance with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law,

1. *Reaffirms* the right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference, as set out in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights;

2. *Recalls* that States must ensure that any interference with the right to privacy complies with the principles of legality, necessity and proportionality;

3. *Recognizes* the global and open nature of the Internet and the rapid advancement in information and communications technology as a driving force in accelerating progress towards development in its various forms, including in achieving the Sustainable Development Goals;

4. *Affirms* that the same rights that people have offline must also be protected online, including the right to privacy;

5. *Calls upon* all States:

(*a*) To respect and protect the right to privacy, including in the context of digital communications;

(*b*) To take measures to put an end to violations of the right to privacy and to create the conditions to prevent such violations, including by ensuring that relevant national legislation complies with their obligations under international human rights law;

(*c*) To review their procedures, practices and legislation regarding the surveillance of communications, their interception and the collection of personal data, including mass surveillance, interception and collection, with a view to upholding the right to privacy by ensuring the full and effective implementation of all their obligations under international human rights law;

(*d*) To establish or maintain existing independent, effective, adequately resourced and impartial judicial, administrative and/or parliamentary domestic oversight

mechanisms capable of ensuring transparency, as appropriate, and accountability for State surveillance of communications, their interception and the collection of personal data;

(*e*) To provide individuals whose right to privacy has been violated by unlawful or arbitrary surveillance with access to an effective remedy, consistent with international human rights obligations;

(*f*) To develop or maintain and implement adequate legislation, with effective sanctions and remedies, that protects individuals against violations and abuses of the right to privacy, namely through the unlawful or arbitrary collection, processing, retention or use of personal data by individuals, governments, business enterprises and private organizations;

(*g*) To further develop or maintain, in this regard, preventive measures and remedies for violations and abuses regarding the right to privacy in the digital age that may affect all individuals, including where there are particular effects for women, as well as children and persons in vulnerable situations or marginalized groups;

(*h*) To promote quality education and lifelong education opportunities for all to foster, inter alia, digital literacy and the technical skills required to effectively protect their privacy;

(*i*) To refrain from requiring business enterprises to take steps that interfere with the right to privacy in an arbitrary or unlawful way;

(*j*) To consider appropriate measures that would enable business enterprises to adopt adequate voluntary transparency measures with regard to requests by State authorities for access to private user data and information;

(*k*) To develop or maintain legislation, preventive measures and remedies addressing harm from the sale or multiple resale or other corporate sharing of personal data without the individual's free, explicit and informed consent;

6. *Encourages* all States to promote an open, secure, stable, accessible and peaceful information and communications technology environment based on respect for international law, including the obligations enshrined in the Charter of the United Nations and human rights instruments;

7. *Encourages* all relevant stakeholders to participate in informal dialogues about the right to privacy and welcomes the contribution of the Special Rapporteur on the right to privacy to this process;

8. *Calls upon* all business enterprises to meet their responsibility to respect human rights in accordance with the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, including the right to privacy in the digital age, and to inform users about the collection, use, sharing and retention of their data that may affect their right to privacy and to establish transparency and policies that allow for the informed consent of users, as appropriate;

9. *Encourages* business enterprises to work towards enabling technical solutions to secure and protect the confidentiality of digital communications, which may include measures for encryption and anonymity, and calls upon States not to interfere with the use of such technical solutions, with any restrictions thereon complying with States' obligations under international human rights law;

10. *Requests* the United Nations High Commissioner for Human Rights to organize, before the thirty-seventh session of the Human Rights Council, an expert workshop with the purpose of identifying and clarifying principles, standards and best practices regarding the promotion and protection of the right to privacy in the digital age,

including the responsibility of business enterprises in this regard, to prepare a report thereon and to submit it to the Council at its thirty-ninth session;

11. *Encourages* States, relevant United Nations agencies, funds and programmes, intergovernmental organizations, treaty bodies, the special procedures, regional human rights mechanisms, civil society organizations, academia, national human rights institutions, business enterprises, the technical community and other relevant stakeholders to participate actively in the expert workshop;

12. *Decides* to continue its consideration of the matter under the same agenda item.

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Human Rights Council
Thirty-fourth session
27 February–24 March 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

**Albania, Angola,* Argentina,* Austria,* Belgium, Bosnia and Herzegovina,* Brazil, Bulgaria,* Cabo Verde,* Chile,* Congo, Croatia, Cyprus,* Czechia,* Denmark,* Ecuador, Estonia,* Finland,* Georgia, Germany, Haiti,* Honduras,* Iceland,* Ireland,* Kenya, Latvia, Liechtenstein,* Lithuania,* Luxembourg,* Mali,* Mexico,* Monaco,* Montenegro,* Netherlands, Norway,* Panama, Paraguay, Peru,* Poland,* Portugal, Republic of Moldova,* Romania,* Serbia,* Sierra Leone,* Slovenia, Spain,* Sweden,* Switzerland, the former Yugoslav Republic of Macedonia,* Timor-Leste,* Tunisia, Ukraine:* *draft resolution*

34/... The right to privacy in the digital age

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the human rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights and relevant international human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities,

Recalling the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms,

Reaffirming the Vienna Declaration and Programme of Action,

Recalling General Assembly resolutions 68/167 of 18 December 2013, 69/166 of 18 December 2014 and 71/199 of 19 December 2016 on the right to privacy in the digital age, and 45/95 of 14 December 1990, on guidelines for the regulation of computerized personal data files, Human Rights Council decision 25/117 of 27 March 2014 and Council resolution 28/16 of 26 March 2015 on the right to privacy in the digital age, and all other relevant resolutions of the Council, in particular resolutions 33/2 of 29 September 2016 on the safety

* State not a member of the Human Rights Council.

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of journalists, resolution 12/16 of 2 October 2009 and all other resolutions on the right to freedom of opinion and expression, and resolutions 20/8 of 5 July 2012, 26/13 of 26 June 2014 and 32/13 of 1 July 2016, on the promotion, protection and enjoyment of human rights on the Internet,

Welcoming the work of the Office of the United Nations High Commissioner for Human Rights on the right to privacy in the digital age, noting with interest its report thereon, and recalling the panel discussion on the right to privacy in the digital age held during the twenty-seventh session of the Human Rights Council,[1]

Welcoming also the work of the Special Rapporteur on the right to privacy, and taking note of the reports of the Special Rapporteur on the right to privacy,[2] of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism[3] and of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,[4]

Noting with appreciation general comment No. 16 of the Human Rights Committee on the right to respect of privacy, family, home and correspondence, and protection of honour and reputation, while also noting the vast technological leaps that have taken place since its adoption and the need to discuss the right to privacy in view of the challenges of the digital age,

Noting that, in its general comment No. 16, the Human Rights Committee recommends that States take effective measures to prevent the unlawful retention, processing and use of personal data stored by public authorities and business enterprises,

Recalling that the General Assembly in its resolution 71/199 encouraged the Human Rights Council to remain actively seized of the debate on the right to privacy in the digital age, with the purpose of identifying and clarifying principles, standards and best practices regarding the promotion and protection of the right to privacy, and to consider holding an expert workshop as a contribution for a future report of the United Nations High Commissioner for Human Rights on this matter,

Recognizing the need to further discuss and analyse, on the basis of international human rights law, issues relating to the promotion and protection of the right to privacy in the digital age, procedural safeguards, effective domestic oversight and remedies, the impact of surveillance on the right to privacy and other human rights, as well as the need to examine the principles of non-arbitrariness, lawfulness, legality, necessity and proportionality in relation to surveillance practices,

Recognizing also that the discussion on the right to privacy should be based upon existing international and domestic legal obligations, including international human rights law, and relevant commitments, and should not open the path for undue interference with an individual's human rights,

Reaffirming the human right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference, and recognizing that the exercise of the right to privacy is important for the realization of other human rights, including the right to freedom of expression and to hold opinions without

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[1] See A/HRC/28/39.

[2] A/HRC/31/64, A/HRC/34/60 and A/71/368.

[3] A/HRC/34/61 and A/69/397.

[4] A/HRC/23/40 and Corr.1, A/HRC/29/32, A/HRC/32/38 and A/70/361.

interference, and the right to freedom of peaceful assembly and association, and is one of the foundations of a democratic society,

Recognizing that the right to privacy can enable the enjoyment of other rights and the free development of an individual's personality and identity, and an individual's ability to participate in political, economic, social and cultural life, and noting with concern that violations or abuses of the right to privacy might affect the enjoyment of other human rights, including the right to freedom of expression and to hold opinions without interference, and the right to freedom of peaceful assembly and association,

Noting that the rapid pace of technological development enables individuals all over the world to use information and communications technology and at the same time enhances the capacity of governments, business enterprises and individuals to undertake surveillance, interception and data collection, which may violate or abuse human rights, in particular the right to privacy, as set out in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights, and is therefore an issue of increasing concern,

Noting also that, while metadata may provide benefits, certain types of metadata, when aggregated, can reveal personal information that can be no less sensitive than the actual content of communications and can give an insight into an individual's behaviour, social relationships, private preferences and identity,

Noting with concern that automatic processing of personal data for individual profiling may lead to discrimination or decisions that otherwise have the potential to affect the enjoyment of human rights, including economic, social and cultural rights, and recognizing the need to further discuss and analyse these practices on the basis of international human rights law,

Expressing concern that individuals often do not provide their free, explicit and informed consent to the re-use, sale or multiple re-sales of their personal data, as the collecting, processing and sharing of personal data, including sensitive data, has increased significantly in the digital age,

Emphasizing that unlawful or arbitrary surveillance and/or interception of communications, as well as the unlawful or arbitrary collection of personal data, as highly intrusive acts, violate the right to privacy, can interfere with other human rights, including the right to freedom of expression and to hold opinions without interference, and the right to freedom of peaceful assembly and association, and may contradict the tenets of a democratic society, including when undertaken extraterritorially or on a mass scale,

Emphasizing also that States must respect international human rights obligations regarding the right to privacy when they intercept digital communications of individuals and/or collect personal data and when they require disclosure of personal data from third parties, including business enterprises,

Recalling that business enterprises have a responsibility to respect human rights as set out in the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, and that the obligation and the primary responsibility to promote and protect human rights and fundamental freedoms lie with the State,

Deeply concerned at the negative impact that surveillance and/or interception of communications, including extraterritorial surveillance and/or interception of communications, as well as the collection of personal data, in particular when carried out on a mass scale, may have on the exercise and enjoyment of human rights,

Noting that, while concerns about public security may justify the gathering and protection of certain sensitive information, States must ensure full compliance with their obligations under international human rights law,

Emphasizing that, in the digital age, technical solutions to secure and to protect the confidentiality of digital communications, including measures for encryption and anonymity, can be important to ensure the enjoyment of human rights, in particular the rights to privacy, to freedom of expression and to freedom of peaceful assembly and association,

Emphasizing also that an open, secure, stable, accessible and peaceful information and communications technology environment is important to the enjoyment of human rights, including the right to privacy,

Noting that violations and abuses of the right to privacy in the digital age may affect all individuals, including with particular effects on women, as well as children and persons in vulnerable situations, or marginalized groups,

Noting with deep concern that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms frequently face threats and harassment and suffer insecurity as well as unlawful or arbitrary interference with their right to privacy as a result of their activities,

Noting that the prevention and suppression of terrorism is a public interest of great importance, while reaffirming that States must ensure that any measures taken to combat terrorism are in compliance with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law,

1. *Reaffirms* the right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference, as set out in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights;

2. *Recalls* that States should ensure that any interference with the right to privacy is consistent with the principles of legality, necessity and proportionality;

3. *Recognizes* the global and open nature of the Internet and the rapid advancement in information and communications technology as a driving force in accelerating progress towards development in its various forms, including in achieving the Sustainable Development Goals;

4. *Affirms* that the same rights that people have offline must also be protected online, including the right to privacy;

5. *Calls upon* all States:

(*a*) To respect and protect the right to privacy, including in the context of digital communications;

(*b*) To take measures to put an end to violations of the right to privacy and to create the conditions to prevent such violations, including by ensuring that relevant national legislation complies with their obligations under international human rights law;

(*c*) To review their procedures, practices and legislation regarding the surveillance of communications, their interception and the collection of personal data, including mass surveillance, interception and collection, with a view to upholding the right to privacy by ensuring the full and effective implementation of all their obligations under international human rights law;

(*d*) To establish or maintain existing independent, effective, adequately resourced and impartial judicial, administrative and/or parliamentary domestic oversight mechanisms capable of ensuring transparency, as appropriate, and accountability for State surveillance of communications, their interception and the collection of personal data;

(*e*) To provide individuals whose right to privacy has been violated by unlawful or arbitrary surveillance with access to an effective remedy, consistent with international human rights obligations;

(*f*) To develop or maintain and implement adequate legislation, with effective sanctions and remedies, that protects individuals against violations and abuses of the right to privacy, namely through the unlawful or arbitrary collection, processing, retention or use of personal data by individuals, governments, business enterprises and private organizations;

(*g*) To further develop or maintain, in this regard, preventive measures and remedies for violations and abuses regarding the right to privacy in the digital age that may affect all individuals, including where there are particular effects for women, as well as children and persons in vulnerable situations or marginalized groups;

(*h*) To promote quality education and lifelong education opportunities for all to foster, inter alia, digital literacy and the technical skills required to effectively protect their privacy;

(*i*) To refrain from requiring business enterprises to take steps that interfere with the right to privacy in an arbitrary or unlawful way;

(*j*) To consider appropriate measures that would enable business enterprises to adopt adequate voluntary transparency measures with regard to requests by State authorities for access to private user data and information;

(*k*) To develop or maintain legislation, preventive measures and remedies addressing harm from the sale or multiple resale or other corporate sharing of personal data without the individual's free, explicit and informed consent;

6. *Encourages* all States to promote an open, secure, stable, accessible and peaceful information and communications technology environment based on respect for international law, including the obligations enshrined in the Charter of the United Nations and human rights instruments;

7. *Encourages* all relevant stakeholders to participate in informal dialogues about the right to privacy and welcomes the contribution of the Special Rapporteur on the right to privacy to this process;

8. *Calls upon* all business enterprises to meet their responsibility to respect human rights in accordance with the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, including the right to privacy in the digital age, and to inform users about the collection, use, sharing and retention of their data that may affect their right to privacy and to establish transparency and policies that allow for the informed consent of users, as appropriate;

9. *Encourages* business enterprises to work towards enabling technical solutions to secure and protect the confidentiality of digital communications, which may include measures for encryption and anonymity, and calls upon States not to interfere with the use of such technical solutions, with any restrictions thereon complying with States' obligations under international human rights law;

10. *Requests* the United Nations High Commissioner for Human Rights to organize, before the thirty-seventh session of the Human Rights Council, an expert

workshop with the purpose of identifying and clarifying principles, standards and best practices regarding the promotion and protection of the right to privacy in the digital age, including the responsibility of business enterprises in this regard, to prepare a report thereon and to submit it to the Council at its thirty-ninth session;

11. *Encourages* States, relevant United Nations agencies, funds and programmes, intergovernmental organizations, treaty bodies, the special procedures, regional human rights mechanisms, civil society organizations, academia, national human rights institutions, business enterprises, the technical community and other relevant stakeholders to participate actively in the expert workshop;

12. *Decides* to continue its consideration of the matter under the same agenda item.